



# ILLINOIS CHARITABLE ORGANIZATION LAWS

## THE ILLINOIS CHARITABLE TRUST ACT

## SOLICITATION FOR CHARITY ACT

## ILLINOIS CRIMINAL CODE SECTION 17-2

Three statutes, the Illinois Charitable Trust Act (760 ILCS 55/1), the Solicitation for Charity Act (225 ILCS 460/1), and the Illinois Criminal Code (720 ILCS 5/17-2) govern the activities of Illinois charitable organizations. The Attorney General administers these statutes both as a source of public information and as an aid in fulfilling his common law duty to protect charitable funds. The Illinois Charitable Trust Act and the Illinois Criminal Code became law in 1961 and the Illinois Solicitation Act became law in 1963. The legislature has amended the Acts, the most recent amendments taking effect August, 1999. This booklet contains the complete text of the Charitable Trust Act and the Solicitation for Charity Act as amended effective August, 1999. This booklet also contains Section 17-2 of the Illinois Criminal Code (720 ILCS 5/17-2).

If you have any specific questions please write to the Office of the Illinois Attorney General, Charitable Trusts Bureau, 100 W. Randolph St., 3rd Floor Chicago, Illinois 60601; telephone (312) 814-2595; TTY (312) 814-3374.

Sincerely,  
Attorney General Lisa Madigan

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\* The categories in this Table of Contents are included in the text of this booklet for information purposes only, and are not part of the actual text of the statute.

### CHARITABLE TRUST ACT

An Act providing for the reporting of and the enforcement of certain charitable trusts.

Ch. 14, par. 51, et seq.

L. 1961, p. 2094

Approved July 31, 1961.

LRB editorial caption: Charitable Trust Act.

Statutory short title: Charitable Trust Act.

(Ch. 14, par. 51)

760 ILCS 55/1

Sec. 1. This Act may be cited as Charitable Trust Act.

(Ch.14, par. 52)

760 ILCS 55/2

Sec. 2. This Act applies to any and all trustees, as defined in Section 3 [760 ILCS 55/3], holding property of a value in excess of \$4,000.

### Definitions

(Ch. 14, par. 53)

760 ILCS 55/3

Sec. 3. "Trustee" means any person, individual, group of individuals, association, corporation, not-for-profit corporation, estate representative, or other legal entity holding property for or solicited for any charitable purpose; or any chief operating officer, director, executive director or owner of a corporation soliciting or holding property for a charitable purpose.

### Exemptions

(Ch. 14, par. 54)

760 ILCS 55/4

Sec. 4. (a) This Act does not apply to the United States, any State, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or to any governmental subdivision; or to a corporation sole, or other religious corporation, trust or organization which holds property for religious, charitable, hospital or educational purposes or for the purpose of operating cemeteries or a home or homes for the aged; nor to any agency or organization, incorporated or unincorporated, affiliated with and directly supervised by such a religious corporation or organization; or to an officer, director or trustee of any such religious corporation, trust or organization who holds property in his official capacity for like purposes; or to a charitable organization foundation, trust or corporation organized for the purpose of and engaged in the operation of schools or hospitals.

(b) As an alternative means of satisfying the duties and obligations otherwise imposed by this Act, any veterans organization chartered or incorporated under federal law and any veterans organization which is affiliated with and recognized in the bylaws of a congressionally chartered or incorporated veterans organization may register with the Attorney General as provided in Section 5 of this Act [760 ILCS 55/5] and comply with the filing requirements set forth in subsection (d) of Section 4 of the Solicitation for Charity Act [225 ILCS 460/4].

(c) Any person who would be subject to the provisions of Section 2 of this Act [760 ILCS 55/2] solely by virtue of acting as agent in receiving, collecting, holding or transporting used or second hand personal property for a charitable organization, a veterans organization or an affiliate as described in subsection (b) shall be relieved of all duties and obligations otherwise imposed by this Act upon filing with the Attorney General the documents required under subsection (e) of Section 4 of the Solicitation for Charity Act [225 ILCS 460/4].

### Registration

(Ch. 14, par. 55)

760 ILCS 55/5

Sec. 5. Registration requirement.

(a) The Attorney General shall establish and maintain a register of trustees subject to this Act and of the particular trust or other relationship under which they hold property for charitable purposes and, to that end, shall conduct whatever investigation is necessary, and shall obtain from public records, court officers, taxing

authorities, trustees and other sources, copies of instruments, reports and records and whatever information is needed for the establishment and maintenance of the register.

(b) A registration statement shall be signed and verified under penalty of perjury by 2 officers of a corporate charitable organization or by 2 trustees if not a corporate organization. One signature will be accepted if there is only one officer or one trustee. A registration fee of \$15 shall be paid with each initial registration. If a person, trustee or organization fails to maintain a registration of a trust or organization as required by this Act, and its registration is cancelled as provided in this Act, and if that trust or organization remains in existence and by law is required to be registered, in order to re-register, a new registration must be filed accompanied by required financial reports, and in all instances where re-registration is required, submitted, and allowed, the new re-registration materials must be filed, accompanied by a re-registration fee of \$200.

(c) If a person or trustee fails to register or maintain registration of a trust or organization or fails to file reports as provided in this act, the person or trustee is subject to injunction, to removal, to account, and to appropriate other relief before a court of competent jurisdiction exercising chancery jurisdiction. In the event of such action, the court may impose a civil penalty of not less than \$500 nor more than \$1,000 against the organization or trust estate that failed to maintain a registration required under this Act. The collected penalty shall be used for charitable trust enforcement and for providing charitable trust information to the public.

(Ch. 14, par. 55A)

760 ILCS 55/5A

Sec. 5A. Organizations that have been approved for participation under the Voluntary Payroll Deductions Act of 1983 [5 ILCS 340/1 et seq.] shall be reported to the Attorney General by the Comptroller no later than May 1 of each year.

(Ch. 14 par. 56)

760 ILCS 55/6

Sec. 6. (a) Every trustee subject to this Act who has received property for charitable purposes shall file and register with the Attorney General, within 6 months after any part of the income or principal is received for application to the charitable purpose, and prior to disbursements, a copy of the trust agreement, articles of incorporation or other written instrument, if any, providing for his title, powers or duties. In the event a trustee subject to this Act is holding property for charitable purposes under no such written instrument, such trustee nevertheless shall file, in lieu of such instrument, a statement in writing setting forth his title, powers and duties with respect to the property he is so holding. If any part of the income or principal is authorized or required to be applied to a charitable purpose, whether a remainder interest or charitable lead interest, at the time this Act takes effect, the filing shall be made within 6 months after the effective date of

this Act. Upon complying with the requirement of this Section, banks and trust companies, authorized to accept and execute trusts in this State, and an individual or individuals duly appointed, qualified and acting as cofiduciary or cofiduciaries with any such bank or trust company, shall be exempt from all other provisions and requirements of this Act, but shall be required to annually file a copy of the federal Internal Revenue report or return for the trust within the time of its federal due date, with the Attorney General in lieu of other reporting.

(b) If the settlor is still living, any trust which is merely registered because it is a charitable remainder interest or charitable lead interest trust, and the charitable interest is not matured, whether revocable or irrevocable, the trust may upon written request be registered as a confidential registration. A confidential registration shall mean the Attorney General shall hold the file confidentially and not make any filings therein public, unless necessary and pursuant to litigation. The Attorney General may, however, disclose a confidential registration file for statistical reasons if all indications of name and identity are blocked out, but at all times maintaining the confidentiality as required in this subsection.

## Annual Reports

(Ch. 14, par. 57)

760 ILCS 55/7

Sec. 7. (a) Except as otherwise provided, every trustee subject to this Act shall, in addition to filing copies of the instruments previously required, file with the Attorney General periodic annual written reports under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the trustee, in accordance with rules and regulations of the Attorney General.

(b) The Attorney General shall make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. He may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for the different classes as to time and nature of the reports required to the ends (1) that he shall receive reasonably current, annual reports as to all charitable trusts or other relationships of a similar nature, which will enable him to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts and similar relationships. The Attorney General may suspend the filing of reports as to a particular charitable trust or relationship for a reasonable, specifically designated time upon written application of the trustee filed with the Attorney General and after the Attorney General has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by his office.

(c) A copy of an account filed by the trustee in any court having jurisdiction of the trust or other relationship; if the account has been approved by the court in which it was filed and notice given to the Attorney General as an interested party, may be filed as a report required by this Section.

(d) The first report for a trust or similar relationship hereafter established, unless the filing thereof is suspended as herein provided, shall be filed not later than one year after any part of the income or principal is authorized or required to be applied to a charitable purpose. If any part of the income or principal of a trust previously established is authorized or required to be applied to a charitable purpose at the time this Act takes effect, the first report, unless the filing thereof is suspended, shall be filed within 6 months after the effective date of this Act. In addition, every trustee registered hereunder that received more than \$25,000 in revenue during a trust fiscal year or has possession of more than \$25,000 of assets at any time during a fiscal year shall file an annual financial report within 6 months of the close of the trust's or organization's fiscal year, and if a calendar year the report shall be due on each June 30 of the following year. Every trustee registered hereunder that did not receive more than \$25,000 in revenue or hold more than \$25,000 in assets during a fiscal year shall file only a simplified summary financial statement disclosing only the gross receipts, total disbursements, and assets on hand at the end of the year, on forms prescribed by the Attorney General.

(e) The periodic reporting provisions of this Act do not apply to any trustee of a trust which is the subject matter of an adversary proceeding pending in the circuit court in this State. However, upon commencement of the proceeding the trustee shall file a report with the Attorney General informing him of that fact together with the title and number of the cause and the name of the court. Upon entry of final judgment in the cause the trustee shall in like manner report that fact to the Attorney General and fully account for all periods of suspension.

(f) The Attorney General in his discretion may, pursuant to rules and regulations promulgated by the Attorney General, accept executed copies of federal Internal Revenue returns and reports as a portion of the annual reporting. The report shall include a statement of any changes in purpose or any other information required to be contained in the registration form filed on behalf of the organization. The report shall be signed under penalty of perjury by the president and the chief fiscal officer of any corporate organization or by 2 trustees if not a corporation. One signature shall be accepted if there is only one officer or trustee.

(g) The Attorney General shall cancel the registration of any trust or organization that wilfully fails to comply with subsections (a), (b), (c) or (d) of this Section within the time prescribed, and the assets of the organization may through court proceedings be collected, debts paid and proceeds distributed under court supervision to other charitable purposes upon an action filed by the Attorney General as law and equity allow. Upon timely written request, the due date for filing may be extended by the Attorney General for a period of 60 days. Notice of registration cancellation shall be mailed by regular mail to the registrant at the registration file address or to its registered agent or president 21 days before the effective date of the cancellation. Reports submitted after registration is canceled shall require reregistration.

(h) Every trustee registered hereunder that received in any fiscal year more than \$25,000 in revenue or held more than \$25,000 in assets shall pay a fee of \$15 along with each annual financial report filed pursuant to this Act. If an annual report is not timely filed, a late filing fee of an additional \$100 is imposed and shall be paid as a condition of filing a late report. Reports submitted without the proper fee shall not be accepted for filing.

### **Charitable Trust for the Benefit of a Minor or Disabled Person; Report.**

760 ILCS 55/7.5 new

#### **SEC. 7.5. Charitable Trust for the Benefit of a Minor or Disabled Person; Report**

(a) In the case of a charitable trust established for the benefit of a minor or disabled person, the person or trustee responsible for the trust, if not the guardian or parent, shall report its existence by certified or registered United States mail to the parent or guardian of the minor or disabled person within 30 days after formation of the trust and every 6 months thereafter. The written report shall include the name and address of the trustee or trustees responsible for the trust, the name and address of the financial institution at which funds for the trust are held, the amount of funds raised for the trust, and an itemized list of expenses for administration of the trust.

The guardian of the estate of the minor or disabled person shall report the existence of the trust as part of the ward's estate to the court that appointed the guardian as part of its responsibility to manage the ward's estate as established under Section 11-13 of the Probate Act of 1975. Compliance with this section in no way affects other requirements for trustee registration and reporting under this Act or any accountings or authorizations required by the court handling the ward's estate.

(b) If a person or trustee fails to report the existence of the trust to the minor's or disabled person's parent or guardian as required in this section, the person or trustee is subject to injunction, to removal, to account, and to other appropriate relief before a court of competent jurisdiction exercising chancery jurisdiction.

(c) For the purpose of this section, a charitable trust for the benefit of a minor or disabled person is a trust, including a special needs trust, that receives funds solicited from the public under representations that such will (i) benefit a needy minor or disabled person, (ii) pay the medical or living expenses of the minor or disabled person, or (iii) be used to assist in family expenses of the minor or disabled person.

(d) Each and every trustee of a charitable trust for the benefit of a minor or disabled person must register under this Act and in addition must file an annual report as required by Section 7 of this Act.

(Ch. 14, par. 58)

760 ILCS 55/8

Sec. 8. The Attorney General may make additional rules and regulations necessary for

the administration of this Act.

### **Administrative Subpoenas**

(Ch. 14, par. 59)

760 ILCS 55/9

Sec. 9. The Attorney General may investigate transactions and relationships of trustees subject to this Act for the purpose of determining whether the property held for charitable purposes is properly administered. He may require any agent, trustee, fiduciary, beneficiary, institution, association, or corporation, or other person to appear, at a named time and place, in the county designated by the Attorney General, where the person resides or is found, to give information under oath and to produce books, memoranda, papers, documents of title and evidence of assets, liability, receipts, or disbursements in the possession or control of the person ordered to appear.

(Ch. 14, par. 60)

760 ILCS 55/10

Sec. 10. When the Attorney General requires the attendance of any person, as provided in Section 9 [760 ILCS 55/9], he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be served upon the person in the manner provided for service of process in civil cases at least 14 days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena and, upon application of the Attorney General, obedience to the order may be enforced by the circuit court in the county where the person receiving it resides or is found, in the same manner as though the notice were a subpoena. Such court may, in case of contumacy or refusal to obey the order issued by the Attorney General, issue an order requiring such person to appear before the Attorney General or to produce documentary evidence, if so ordered, or to give evidence touching the matter in question, and any failure to obey such order of the court may be punished by that court as a contempt upon itself. The investigation or hearing may be made by or before any Assistant Attorney General designated in writing by the Attorney General to conduct such investigation or hearing on his behalf. Witnesses ordered to appear shall be paid the same fees and mileage as are paid witnesses in the circuit courts of this State, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the circuit courts of this State. The Attorney General or the Assistant Attorney General acting in his behalf is empowered to administer the necessary oath or affirmation to such witnesses.

### **Public Records**

(Ch. 14, par. 61)

760 ILCS 55/11

Sec. 11. Subject to reasonable rules and regulations adopted by the Attorney General, the register, copies of instruments and reports filed with the Attorney General shall be open to public inspection.

(Ch. 14, par. 62)

760 ILCS 55/12

Sec. 12. The Attorney General may institute appropriate proceedings to secure compliance with this Act and to secure the proper administration of any trust or other relationship to which this Act applies. Venue shall be proper in any county where the Attorney General accepts and maintains the list of registrations. In furtherance of judicial economy, actions filed for violation of this Act may name multiple trustees, trusts, and organizations in a joint action where each has engaged in similar conduct in violation of this Act or where similar relief is sought against those defendants for violation of this Act.

(Ch. 14, par. 63)

760 ILCS 55/13

Sec. 13. This Act shall apply regardless of any contrary provisions of any instrument.

(Ch. 14, par. 64)

760 ILCS 55/14

Sec. 14. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

### **Duties of Trustees**

(Ch. 14, par. 65)

760 ILCS 55/15

Sec. 15. (a) Charitable trustees are subject to certain duties otherwise defined in Illinois statutes and case law, which include but are not limited to the following:

- (1) To avoid "self-dealing" and conflicts of interest;
- (2) To avoid wasting charitable assets;
- (3) To avoid incurring penalties, fines, and unnecessary taxes;
- (4) To adhere and conform the charitable organization to its charitable purpose;
- (5) To not make non-program loans, gifts, or advances to any person, except as allowed by the General Not For Profit Corporation Act of 1986 [805 ILCS 105/101.01 et seq.];
- (6) To utilize the trust in conformity with its purposes for the best interest of the beneficiaries;
- (7) To timely file registration and financial reports required by this Act; and
- (8) To comply and to cause the charitable organization to comply with this Act and, if incorporated, the General Not For Profit Corporation Act of 1986 [805 ILCS 105/101.01 et seq.].

(b) Every person subject to this Act shall maintain accurate and detailed books and records at the principal office of the organization to provide the information required in this Act. All books and records shall be open for inspection at all reasonable times by the Attorney General or his authorized representative.

## Termination and Transfer of Certain Trusts

760 ILCS 55/15.5

Sec. 15.5. Termination and transfer of certain trusts.

(a) If a trustee who is subject to this Act determines that the continued administration of a trust has become impractical because of the trust's small size or because of changed circumstances that adversely affect the charitable purpose or purposes of the trust, then after notifying each named charitable organization, if any, for the benefit of which the trust was created and after obtaining the consent of the Attorney General, the trustee may amend the terms of the governing instrument of the trust to the extent necessary to terminate the trust and to transfer the trust assets as provided in subsection (c) or (d). The Attorney General shall consent to the termination of the trust and the transfer of the trust assets only after having determined that the termination and transfer are necessary or appropriate, in the case of termination because of the trust's small size, to implement the charitable purpose or purposes of the trust or, in the case of termination because of changed circumstances, to fulfill the general intent of the donor of the trust as expressed in the governing instrument of the trust.

(b) For purposes of subsection (a), the term "small size" shall mean a trust for which the annual expenses of administration, including the trustee's fees, the investment management and accounting fees and excise taxes would, if charged entirely against income, exceed 25% of the income of the trust, and the term "changed circumstances" shall mean a condition in which the charitable purpose or purposes of the trust shall, in the judgment of the trustee, have become illegal, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community.

(c) Subject to subsection (d) with respect to a trust terminated because of the trust's small size, the trustee shall transfer the trust assets of the terminated trust to a community foundation or similar publicly-supported organization described in Section 170 (b)(1)(A)(vi) of the Internal Revenue Code of 1986 [26 U.S.C. @ 170], to be administered, in the case of termination because of the trust's small size, in implementation of the charitable purpose or purposes of the trust or, in the case of termination because of changed circumstances, in accordance with the general intent of the donor of the trust as expressed in the governing instrument of the trust.

(d) If a trust terminated because of the trust's small size was created for the benefit of a named charitable organization which has established an endowment fund and if the

principal of the endowment fund is under its irrevocable terms no more expendable by the organization than is the principal of the trust under the terms of the governing instrument of the trust, the charitable organization may direct the trustee to transfer the trust assets of the trust to the endowment fund, to be administered in implementation of the charitable purpose or purposes of the trust.

(e) A trustee need not obtain the approval of any court in order to terminate a trust and to transfer the trust assets as provided in this Section.

(f) The provisions of this Section are an alternative to and not in abrogation of any other course of action provided by law. A trustee shall not incur any civil or criminal liability by reason of acting in accordance with this Section.

## Misuse of Charitable Assets

(Ch. 14, par. 66)

760 ILCS 55/16

Sec. 16. (a) Any person who, intentionally and in breach of fiduciary duty with malice, misuses charitable assets is subject to punitive damages in an appropriate amount upon a trial on the issue.

(b) Upon an application to the chancery division of the circuit court in which the Attorney General alleges that a charitable trust needs to be protected or the trustees of a charitable organization or trust have engaged in a breach of fiduciary duty toward the organization, and injunctive relief and removal of the trustees is sought, the Court shall exercise its discretion as the equities require and may, as part of the injunctive relief, and after a hearing where the trustees shall have an opportunity to be heard, appoint temporarily or permanently a receiver or additional trustees to protect and operate the organization and may temporarily, or as ultimate relief for breach of duty or to protect the trust, permanently remove any charitable organization's trustees, corporate officers, directors and members from office and appoint replacements to protect the public interest.

## Penalties for Personal Use of Charitable Assets

(Ch. 14, par. 67)

760 ILCS 55/17

Sec. 17. Any trustee who with malice and without lawful authority, in violation of the trust purposes or by intentional breach of fiduciary duty, intentionally disburses or causes charitable trust funds to be used for his personal benefit or personal use in an amount in excess of \$1,000 within a 5 year period is guilty of a Class 2 felony and is subject to punitive damages up to or equal to the amount misused and is subject to a civil penalty of up to \$50,000 for each intentional knowing violation.

(Ch. 14, par. 68)

760 ILCS 55/18

Sec. 18. All copies of registration materials or financial documents filed with the Attorney General pursuant to the provisions of this Act shall, when certified by him or by his designated Assistant Attorney General, be taken and received in all courts, public offices and official bodies as business records of the filer.

(Ch. 14, par. 69)

760 ILCS 55/19

Sec. 19. There is created in the State Treasury the Illinois Charity Bureau Fund. All fees and penalties collected by the Attorney General pursuant to this Act shall be deposited in the Illinois Charity Bureau Fund in the State Treasury. Moneys in the Fund shall be appropriated to the Attorney General for charitable trust enforcement purposes and dissemination of public information.

HISTORY:

Source: P.A. 87-755.

## SOLICITATION FOR CHARITY ACT

An Act to regulate solicitation and collection of funds for charitable purposes, providing for violations thereof, and making an appropriation therefor.

Ch. 23, par. 5100 et seq.

L. 1963, p. 2082

Approved July 26, 1963.

LRB editorial caption:

Solicitation for Charity Act.

Statutory short title:

Solicitation for Charity Act

(Ch. 23, par. 5100)

Sec. 0.01. Short title. This Act may be cited as the Solicitation for Charity Act.

(Source: P.A. 86-1324.)

## Definitions

(Ch. 23, par. 5101)

225 ILCS 460/1

Sec. 1. The following words and phrases as used in this Act shall have the following meanings unless a different meaning is required by the context.

(a) "Charitable organization." Any benevolent, philanthropic, patriotic, or eleemosynary person or one purporting to be such which solicits and collects funds for charitable purposes and includes each local, county, or area division within this State of such charitable organization, provided such local, county or area division has authority and discretion to disburse funds or property otherwise than by transfer to any parent organization.

(b) "Contribution." The promise or grant of any money or property of any kind or value, including the promise to pay, except payments by union members of an organization. Reference to the dollar amount of "contributions" in this Act means in the case of promises to pay, or payments for

merchandise or rights of any other description, the value of the total amount promised to be paid or paid for such merchandise or rights and not merely that portion of the purchase price to be applied to a charitable purpose. Contribution shall not include the proceeds from the sale of admission tickets by any not-for-profit music or dramatic arts organization which establishes, by such proof as the Attorney General may require, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code [26 U.S.C. @ 501 et seq.] and which is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis. For purposes of this subsection, union member dues and donated services shall not be deemed contributions.

(c) "Person." Any individual, organization, group, association, partnership, corporation, trust or any combination of them.

(d) "Professional fund raiser." Any person who for compensation or other consideration, conducts, manages, or carries on any solicitation drive or campaign in this State or from this State or on behalf of a charitable organization residing within this State for the purpose of soliciting contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons in this State as independently engaged in the business of soliciting contributions for such purposes. A bona fide director, officer, employee or unpaid volunteer of a charitable organization shall not be deemed a professional fund raiser unless the person is in a management position and the majority of the individual's salary or other compensation is computed on a percentage basis of funds to be raised, or actually raised.

(e) "Professional fund raising consultant." Any person who is retained by a charitable organization or trustee for a fixed fee or rate that is not computed on a percentage of funds to be raised, or actually raised, under a written agreement, to only plan, advise, consult, or prepare materials for a solicitation of contributions in this State, but who does not manage, conduct or carry on a fundraising campaign and who does not solicit contributions or employ, procure, or engage any compensated person to solicit contributions and who does not at any time have custody or control of contributions. A volunteer, employee or salaried officer of a charitable organization or trustee maintaining a permanent establishment or office in this State is not a professional fundraising consultant. An attorney, investment counselor, or banker who advises an individual, corporation or association to make a charitable contribution is not a professional fundraising consultant as a result of the advice.

(f) "Charitable purpose." Any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose.

(g) "Charitable Trust" means any relationship whereby property is held by a person for a charitable purpose.

(h) "Education Program Service" means any activity which provides information to the public of a nature that is not commonly known or facts which are not universally regarded as obvious or

as established by common understanding and which informs the public of what it can or should do about a particular issue.

(i) "Primary Program Service" means the program service upon which an organization spends more than 50% of its program service funds or the program activity which represents the largest expenditure of funds in the fiscal period.

(j) "Professional solicitor" means any natural person who is employed or retained for compensation by a professional fund raiser to solicit contributions for charitable purposes from persons in this State or from this State or on behalf of a charitable organization residing within this State.

(k) "Program Service Activity" means the actual charitable program activities of a charitable organization for which it expends its resources.

(l) "Program Service Expense" means the expenses of charitable program activity and not management expenses or fund raising expenses. In determining Program Service Expense, management and fund raising expenses may not be included.

(m) "Public Safety Personnel Organization" means any person who uses any of the words "officer", "police", "policeman", "policemen", "troopers", "sheriff", "law enforcement", "fireman", "firemen", "paramedic", or similar words in its name or in conjunction with solicitations, or in the title or name of a magazine, newspaper, periodical, advertisement book, or any other medium of electronic or print publication, and is not a governmental entity. No organization may be a Public Safety Personnel Organization unless 80% or more of its voting members or trustees are active, retired, or disabled police officers, peace officers, firemen, fire fighters, emergency medical technicians - ambulance, emergency medical technicians - intermediate, emergency medical technicians - paramedic, ambulance drivers, or other medical assistance or first aid personnel.

(M-5) "Public Safety Personnel" includes police officers, peace officers, firemen, fire fighters, emergency medical technicians - ambulance, emergency medical technicians - intermediate, emergency medical technicians - paramedic, ambulance drivers, and other medical assistance or first aid personnel.

(n) "Trustee" means any person, individual, group of individuals, association, corporation, not for profit corporation, or other legal entity holding property for or solicited for any charitable purpose; or any officer, director, executive director or other controlling persons of a corporation soliciting or holding property for a charitable purpose.

## Registration of Charities

(Ch. 23, par. 5102)

225 ILCS 460/2

Sec. 2. Registration; rules; penalties.

(a) Every charitable organization, except as otherwise provided in Section 3 of this Act [225 ILCS 460/3], which solicits or intends to solicit contributions from persons in this State or which is located in this State, by any means whatsoever shall, prior to any solicitation, file with the Attorney General upon forms prescribed by him, a registration statement,

accompanied by a registration fee of \$15, which statement shall include the following certified information:

1. The name of the organization and the name or names under which it intends to solicit contributions.

2. The names and addresses of the officers, directors, trustees, and chief executive officer of the organization.

3. The addresses of the organization and the addresses of any offices in this State. If the organization does not maintain a principal office, the name and address of the person having custody of its financial records.

4. Where and when the organization was legally established, the form of its organization and its tax exempt status.

5. The purpose for which the organization is organized and the purpose or purposes for which the contributions to be solicited will be used.

6. The date on which the fiscal year of the organization ends.

7. Whether the organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions.

8. The names and addresses of any professional fund raisers who are acting or have agreed to act on behalf of the organization.

9. Methods by which solicitation will be made.

10. Copies of contracts between charitable organizations and professional fund raisers relating to financial compensation or profit to be derived by the professional fund raisers. Where any such contract is executed after filing of registration statement, a copy thereof shall be filed within 10 days of the date of execution.

11. Board, group, or individual having final discretion as to the distribution and use of contributions received.

(b) The registration statement shall be signed by the president or other authorized officer and the chief fiscal officer of the organization.

(c) Such registration shall remain in effect unless it is either cancelled as provided in this Act or withdrawn by the organization.

(d) Every registered organization shall notify the Attorney General within 10 days of any change in the information required to be furnished by such organization under paragraphs 1 through 11 of subdivision (a) of this Section.

(e) In no event shall a registration of a charitable organization continue, or be continued, in effect after the date such organization should have filed, but failed to file, an annual report in accordance with the requirements of Section 4 of this Act [225 ILCS 460/4], and such organization shall not be eligible to file a new registration until it shall have filed the required annual report with the Attorney General. If such report is subsequently filed and accepted by the Attorney

General such organization may file a new registration. If a person, trustee, or organization fails to timely register or maintain a registration of a trust or organization as required by this Act or if its registration is cancelled as provided in this Act, and if that trust or organization remains in existence and by law is required to be registered, in order to re-register or file a late registration a current registration statement must be filed accompanied by financial reports in the form required herein for all past years. In all instances where re-registration and late registration are allowed, the new registration materials must be filed, accompanied by a penalty registration fee of \$200.

(f) Subject to reasonable rules and regulations adopted by the Attorney General, the register, registration statements, annual reports, financial statements, professional fund raisers' contracts, bonds, applications for registration and re-registration, and other documents required to be filed with the Attorney General shall be open to public inspection.

Every person subject to this Act shall maintain accurate and detailed books and records at the principal office of the organization to provide the information required herein. All such books and records shall be open to inspection at all reasonable times by the Attorney General or his duly authorized representative.

(g) Where any local, county or area division of a charitable organization is supervised and controlled by a superior or parent organization, incorporated, qualified to do business, or doing business within this State, such local, county or area division shall not be required to register under this Section if the superior or parent organization files a registration statement on behalf of the local, county or area division in addition to or as part of its own registration statement. Where a registration statement has been filed by a superior or parent organization as provided in Section 2(g) of this Act [225 ILCS 460/2], it shall file the annual report required under Section 4 of this Act [225 ILCS 460/4] on behalf of the local, county or area division in addition to or as part of its own report, but the accounting information required under Section 4 of this Act [225 ILCS 460/4] shall be set forth separately and not in consolidated form with respect to every local, county or area division which raises or expends more than \$4,000.

(h) The Attorney General may make rules of procedure and regulations necessary for the administration of this Act. Copies of all such rules of procedure and regulations and of all changes therein, duly certified by the Attorney General, shall be filed in the office of the Secretary of State.

(i) If a person, organization, or trustee fails to register or if registration of a trust or organization is cancelled as provided in this Act, the person, organization, or trustee is subject to injunction, to removal, to account, and to appropriate other relief before the circuit court exercising chancery jurisdiction. In addition to any other relief granted under this Act, the court may impose a civil penalty of not less than \$500 nor more than \$1,000 against the organization or trust estate that failed to register or failed to maintain a registration required under this Act. The collected penalty funds shall be used for

charitable trust enforcement and for providing charitable trust information to the public.

## Exemptions

(Ch. 23, par. 5103)

225 ILCS 460/3

### Sec. 3. Exemption.

(a) Upon initial filing of a registration statement pursuant to Section 2 of this Act and notification by the Attorney General of his determination that the organizational purposes or circumstances specified in this paragraph for exemption are actual and genuine, the following entities shall be exempt from all the report filing provisions of this Act, except for the requirements set forth in Section 2 of this Act [225 ILCS 460/2]:

1. A corporation sole or other religious corporation, trust or organization incorporated or established for religious purposes, nor to any agency or organization incorporated or established for charitable, hospital or educational purposes and engaged in effectuating one or more of such purposes, that is affiliated with, operated by, or supervised or controlled by a corporation sole or other religious corporation, trust or organization incorporated or established for religious purposes, nor to other religious agencies or organizations which serve religion by the preservation of religious rights and freedom from persecution or prejudice or by fostering religion, including the moral and ethical aspects of a particular religious faith.

2. Any charitable organization which does not intend to solicit and receive and does not actually receive contributions in excess of \$15,000 during any 12 month period ending December 31 of any year. However, if the gross contributions received by such charitable organization during any 12 month period ending December 31 of any year shall be in excess of \$15,000, it shall file reports as required under this Act and the provisions of this Act shall apply.

(b) The following persons shall not be required to register with the Attorney General:

1. The University of Illinois, Southern Illinois University, Eastern Illinois University, Illinois State Normal University, Northern Illinois University, Western Illinois University, all educational institutions that are recognized by the State Board of Education or that are accredited by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting, any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families, or a library established under the laws of this State, provided that the annual financial report of such institution or library shall be filed with the State Board of Education, Governor, Illinois State Library, County Library Board or County Board, as provided by law.

2. Fraternal, patriotic, social, educational, alumni organizations and historical societies when solicitation of contributions is confined to their membership. This exemption shall be extended to any subsidiary of a parent or superior organization exempted by Sub-paragraph 2 of Paragraph (b) of Section 3 of this Act [225 ILCS 460/3] where such solicitation is confined to the membership of the subsidiary, parent or superior organization.

3. Persons requesting any contributions for the relief

or benefit of any individual, specified by name at the time of the solicitation, if the contributions collected are turned over to the named beneficiary, first deducting reasonable expenses for costs of banquets, or social gatherings, if any, provided all fund raising functions are carried on by persons who are unpaid, directly or indirectly, for such services.

4. Any bona fide union, bona fide political organization or bona fide political action committee, which does not solicit funds for a charitable purpose.

5. Any charitable organization receiving an allocation from an incorporated community chest or united fund, provided such chest or fund is complying with the provisions of this Act relating to registration and filing of annual reports with the Attorney General, and provided such organization does not actually receive, in addition to such allocation, contributions in excess of \$4,000 during any 12 month period ending June 30th of any year, and provided further that all the fund raising functions of such organization are carried on by persons who are unpaid for such services. However, if the gross contributions other than such allocation received by such charitable organization during any 12 month period ending June 30th of any year shall be in excess of \$4,000, it shall within 30 days after the date it shall have received such contributions in excess of \$4,000 register with the Attorney General as required by Section 2 [225 ILCS 460/2].

6. A bona fide organization of volunteer firemen, or a bona fide auxiliary or affiliate of such organization, provided all its fund raising activities are carried on by members of such an organization or an affiliate thereof and such members receive no compensation, directly or indirectly, therefor.

7. Any charitable organization operating a nursery for infants awaiting adoption providing that all its fund raising activities are carried on by members of such an organization or an affiliate thereof and such members receive no compensation, directly or indirectly therefor.

8. Any corporation established by the Federal Congress that is required by federal law to submit annual reports of its activities to Congress containing itemized accounts of all receipts and expenditures after being duly audited.

9. Any boys' club which is affiliated with the Boys' Club of America, a corporation chartered by Congress; provided, however, that such an affiliate properly files the reports required by the Boys' Club of America and that the Boys' Club of America files with the Government of the United States the reports required by its federal charter.

10. Any veterans organization chartered or incorporated under federal law and any veterans organization which is affiliated with, and recognized in the bylaws of, a congressionally chartered or incorporated veterans organization; provided, however, that the affiliate properly files the reports required by the congressionally chartered or incorporated veterans organization, that the congressionally chartered or incorporated veterans organization files with the government of the United States the reports

required by its federal charter, and that copies of such federally required reports are filed with the Attorney General.

11. Any parent-teacher organization that is controlled by teachers and parents of children attending a particular public or private school for which the organization is named and solicits contributions for the benefit of that particular school; provided that:

- (i) the school is specified by name at the time the solicitation is made;
- (ii) all of the contributions are turned over to the school, after first deducting reasonable expenses for fundraising and parent-teacher activities;
- (iii) all fundraising functions are carried on by persons who are not paid, either directly or indirectly, for their fundraising services;
- (iv) the total contributions, less reasonable fundraising expenses, do not exceed \$50,000 in any calendar year;
- (v) the organization provides the school at least annually with a complete accounting of all contributions received; and
- (vi) the governing board of the school certifies to the Attorney General, if the Attorney General makes a request for certification, that the parent-teacher organization has provided the school with a full accounting and that the organization has provided benefits and contributions to the school.

## Annual Reports of Charities

(Ch. 23, pa. 5104)

225 ILCS 460/4

Sec. 4. (a) Every charitable organization registered pursuant to Section 2 of this Act [225 ILCS 460/2] which shall receive in any 12 month period ending upon its established fiscal or calendar year contributions in excess of \$150,000, and every charitable organization whose fund raising functions are not carried on solely by staff employees or persons who are unpaid for such services, if the organization shall receive in any 12 month period ending upon its established fiscal or calendar year contributions in excess of \$25,000, shall file a written report with the Attorney General upon forms prescribed by him, on or before June 30 of each year if its books are kept on a calendar basis, or within 6 months after the close of its fiscal year if its books are kept on a fiscal year basis, which written report shall include a financial statement covering the immediately preceding 12 month period of operation. Such financial statement shall include a balance sheet and statement of income and expense, and shall be consistent with forms furnished by the Attorney General clearly setting forth the following: gross receipts and gross income from all sources, broken down into total receipts and income from each separate solicitation project or source; cost of administration; cost of solicitation; cost of programs designed to inform or educate the public; funds or properties transferred out of this State, with explanation as to recipient and purpose; cost of fundraising; compensation paid to trustees; and total net

amount disbursed or dedicated for each major purpose, charitable or otherwise. Such report shall also include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify that the statements therein are true and correct to the best of their knowledge, and shall be accompanied by an opinion signed by an independent certified public accountant that the financial statement therein fairly represents the financial operations of the organization in sufficient detail to permit public evaluation of its operations. Said opinion may be relied upon by the Attorney General.

(b) Every organization registered pursuant to Section 2 of this Act [225 ILCS 460/2] which shall receive in any 12 month period ending upon its established fiscal or calendar year of any year contributions:

(1) in excess of \$15,000, but not in excess of \$25,000, during a fiscal year shall file only a simplified summary financial statement disclosing only the gross receipts, total disbursements, and assets on hand at the end of the year on forms prescribed by the Attorney General; or

(2) in excess of \$25,000, but not in excess of \$150,000, if it is not required to submit a report under subsection (a) of this Section, shall file a written report with the Attorney General upon forms prescribed by him, on or before June 30 of each year if its books are kept on a calendar basis, or within 6 months after the close of its fiscal year if its books are kept on a fiscal year basis, which shall include a financial statement covering the immediately preceding 12-month period of operation limited to a statement of such organization's gross receipts from contributions, the gross amount expended for charitable educational programs, other charitable programs, management expense, and fund raising expenses including a separate statement of the cost of any goods, services or admissions supplied as part of its solicitations, and the disposition of the net proceeds from contributions, including compensation paid to trustees, consistent with forms furnished by the Attorney General. Such report shall also include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify that the statements therein are true and correct to the best of their knowledge.

(c) For any fiscal or calendar year of any organization registered pursuant to Section 2 of this Act [225 ILCS 460/2] in which such organization would have been exempt from registration pursuant to Section 3 of this Act [225 ILCS 460/3] if it had not been so registered, or in which it did not solicit or receive contributions, such organization shall file, on or before June 30 of each year if its books are kept on a calendar basis, or within 6 months after the close of its fiscal year if its books are kept on a fiscal year basis, instead of the reports required by subdivisions (a) or (b) of this Section, a statement certified under penalty of perjury by its president and chief fiscal officer stating the exemption and the facts upon which it is based or that such organization did not solicit or receive contributions in such fiscal year. The statement shall also include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization.

(d) As an alternative means of satisfying the duties and obligations otherwise imposed by this Section, any veterans organization chartered or incorporated under federal law and any veterans organization which is affiliated with, and recognized in the bylaws of, a congressionally chartered or incorporated organization may, at its option, annually file with the Attorney General the following documents:

(1) A copy of its Form 990, as filed with the Internal Revenue Service.

(2) Copies of any reports required to be filed by the affiliate with the congressionally chartered or incorporated veterans organization, as well as copies of any reports filed by the congressionally chartered or incorporated veterans organization with the government of the United States pursuant to federal law.

(3) Copies of all contracts entered into by the congressionally chartered or incorporated veterans organization or its affiliate for purposes of raising funds in this State, such copies to be filed with the Attorney General no more than 30 days after execution of the contracts.

(e) As an alternative means of satisfying all of the duties and obligations otherwise imposed by this Section, any person, pursuant to a contract with a charitable organization, a veterans organization or an affiliate described or referred to in subsection (d), who receives, collects, holds or transports as the agent of the organization or affiliate for purposes of resale any used or second hand personal property, including but not limited to household goods, furniture or clothing donated to the organization or affiliate may, at its option, annually file with the Attorney General the following documents, accompanied by an annual filing fee of \$15:

(1) A notarized report including the number of donations of personal property it has received on behalf of the charitable organization, veterans organization or affiliate during the proceeding year. For purposes of this report, the number of donations of personal property shall refer to the number of stops or pickups made regardless of the number of items received at each stop or pickup. The report may cover the person's fiscal year, in which case it shall be filed with the Attorney General no later than 90 days after the close of that fiscal year.

(2) All contracts with the charitable organization, veterans organization or affiliate under which the person has acted as an agent for the purposes listed above.

(3) All contracts by which the person agreed to pay the charitable organization, veterans organization or affiliate a fixed amount for, or a fixed percentage of the value of, each donation of used or second hand personal property. Copies of all such contracts shall be filed no later than 30 days after they are executed.

(f) The Attorney General may seek appropriate equitable relief from a court or, in his discretion, cancel the registration of any organization which fails to comply with subdivision (a), (b) or (c) of this Section within the time therein prescribed, or fails to furnish such additional information as is requested by the Attorney General within the required time; except that the time may be

extended by the Attorney General for a period not to exceed 60 days upon a timely written request and for good cause stated. Unless otherwise stated herein, the Attorney General shall, by rule, set forth the standards used to determine whether a registration shall be cancelled as authorized by this subsection. Such standards shall be stated as precisely and clearly as practicable, to inform fully those persons affected. Notice of such cancellation shall be mailed to the registrant at least 15 days before the effective date thereof.

(g) The Attorney General in his discretion may, pursuant to rule, accept executed copies of federal Internal Revenue returns and reports as a portion of the foregoing annual reporting in the interest of minimizing paperwork, except there shall be no substitute for the independent certified public accountant audit opinion required by this Act.

(h) The Attorney General after canceling the registration of any trust or organization which fails to comply with this Section within the time therein prescribed may by court proceedings, in addition to all other relief, seek to collect the assets and distribute such under court supervision to other charitable purposes.

(i) Every trustee, person, and organization required to file an annual report shall pay a filing fee of \$15 with each annual financial report filed pursuant to this Section. If a proper and complete annual report is not timely filed, a late filing fee of an additional \$100 is imposed and shall be paid as a condition of filing a late report. Reports submitted without the proper fee shall not be accepted for filing. Payment of the late filing fee and acceptance by the Attorney General shall both be conditions of filing a late report. All late filing fees shall be used to provide charitable trust enforcement and dissemination of charitable trust information to the public and shall be maintained in a separate fund for such purpose known as the Illinois Charity Bureau Fund.

(j) There is created hereby a separate special fund in the State Treasury to be known as the Illinois Charity Bureau Fund. That Fund shall be under the control of the Attorney General, and the funds, fees, and penalties deposited therein shall be used by the Attorney General to enforce the provisions of this Act and to gather and disseminate information about charitable trustees and organizations to the public.

## Service of Process

(Ch. 23, par. 5105)

225 ILCS 460/5

Sec. 5. Any charitable organization, trustee, person, professional fund raiser or professional solicitor, which or who solicits contributions in this State, but does not maintain an office within the State or cannot be located within the State shall be subject to service of process, as follows:

(a) By service thereof on its registered agent within the State, or if there be no such registered agent, then upon the person who has been designated in the registration statement as having custody of books and records within this State; where service is effected upon the person

so designated in the registration statement a copy of the process shall, in addition, be mailed to the registrant's last known address;

(b) When any corporate person has solicited contributions in this State, but maintains no office within the State, has no registered agent within the State, and no designated person having custody of its books and records within the State, or when a registered agent or person having custody of its books and records within the State cannot be found as shown by the return of the sheriff of the county in which such registered agent or person having custody of books and records has been represented by the charitable organization or person as maintaining an office, service may be made by delivering to and leaving with the Secretary of State, or with any deputy or clerk in the corporation department of his office, three copies thereof;

(c) Following service upon the Secretary of State the provisions of law relating to service of process on foreign corporations shall thereafter govern;

(d) Long arm service in accordance with law;

(e) The solicitation of any contribution within this State by any charitable organization or any person shall be deemed to be their agreement that any process against it or him which is so served in accordance with the provisions of this Section shall be of the same legal force and effect as if served personally within this State and that the courts of this State shall have personal jurisdiction over such organizations, persons and trustees;

(f) Venue over persons required to be registered under this Act shall be proper in any county where the Attorney General accepts and maintains the list of registrations. In furtherance of judicial economy, actions filed for violation of this Act may name multiple trustees, trusts, and organizations in a single or joint action where those joined have each engaged in similar conduct in violation of this Act or where similar relief is sought against those defendants for violation of this Act.

## Professional Fundraiser Registration

(Ch. 23, par. 5106)

225 ILCS 460/6

Sec. 6. Professional fund raiser registration.

(a) No person shall act as a professional fund raiser or allow a professional fund raiser entity he owns, manages or controls to act for a charitable organization required to register pursuant to Section 2 of this Act [ 225 ILCS 460/2], or for any organization as described in Section 3 of this Act [ 225 ILCS 460/3] before he has registered himself or the entity with the Attorney General or after the expiration or cancellation of such registration or any renewal thereof. Applications for registration and re-registration shall be in writing, under oath, in the form prescribed by the Attorney General. A registration fee of \$100 shall be paid with each registration and upon each re-registration. Registration and re-registration can proceed only if all financial reports have been filed in proper form and all fees have been paid in full. If the applicant intends to or does take control or possession of charitable funds, the applicant shall at the time of making application, file with, and have approved by, the Attorney General a bond in which the applicant shall be the principal obligor, in the sum of \$10,000, with

one or more corporate sureties licensed to do business in this State whose liability in the aggregate will at least equal such sum. The bond shall run to the Attorney General for the use of the State and to any person who may have a cause of action against the obligor of the bond for any malfeasance or misfeasance in the conduct of such solicitation; provided, that the aggregate limit of liability of the surety to the State and to all such persons shall, in no event, exceed the sum of such bond. Registration or re-registration when effected shall be for a period of one year, or a part thereof, expiring on the 30th day of June, and may be renewed upon written application, under oath, in the form prescribed by the Attorney General and the filing of the bond for additional one year periods. Every professional fund raiser required to register pursuant to this Act shall file an annual written report with the Attorney General containing such information as he may require by rule.

Certification shall be required for only information within the professional fund raiser's knowledge.

(b) Upon filing a complete registration statement, a professional fund raiser shall be given a registration number and shall be considered registered. If the materials submitted are determined to be inaccurate or incomplete, the Attorney General shall notify the professional fund raiser of his findings and the defect and that within 30 days his registration will be cancelled unless the defect is cured within said time.

(c) Every professional fund raiser registered under this Act who takes possession or control of charitable funds directly, indirectly, or through an escrow shall submit a full written accounting to the charitable organization of all funds it or its agents collected on behalf of the charitable organization during the 6 month period ended June 30 of each year, and file a copy of the accounting with the Attorney General. The accounting shall be in writing under oath and be signed and made on forms as prescribed by the Attorney General and shall be filed by the following September 30 of each year; however, within the time prescribed, and for good cause, the Attorney General may grant a 60 day extension of the due date.

(d) Every professional fund raiser registered pursuant to this Act shall also file calendar year written financial reports with the Attorney General containing such information as he may require, on forms prescribed by him, as well as separate financial reports for each separate fund raising campaign conducted. The written report shall be filed under oath on or before April 30 of the following calendar year and be signed and verified under penalty of perjury within the time prescribed. An annual report fee of \$25 shall be paid to the Attorney General with the filing of that report. If the report is not timely filed, a late filing fee shall result and must be paid prior to re-registration. The late filing fee shall be calculated at \$200 for each and every separate fundraising campaign conducted during the report year. For good cause, the Attorney General may grant a 30 day extension of the due date, in which case a late filing fee shall not be imposed until the expiration of the extension period. A copy of the report shall also be given to the charitable organization by the due date of filing. A professional fund raiser shall only be

required to verify information actually available to the professional fund raiser, but in any event an annual report must be timely filed.

(e) No person convicted of a felony may register as a professional fund raiser, and no person convicted of a misdemeanor involving fiscal wrongdoing, breach of fiduciary duty or a violation of this Act may register as a professional fund raiser for a period of 5 years from the date of the conviction or the date of termination of the sentence or probation, if any, whichever is later. This subsection shall not apply to charitable organizations that have as their primary purpose the rehabilitation of criminal offenders, the reintegration of criminal offenders into society, the improvement of the criminal justice system or the improvement of conditions within penal institutions.

(f) A professional fund raiser may not cause or allow independent contractors to act on its behalf in soliciting charitable contributions other than registered professional solicitors. A professional fund raiser must maintain the names, addresses and social security numbers of all of its professional solicitors for a period of at least 2 years.

(g) Any person who knowingly violates the provisions of subsections (a), (e), and (f) of this Section is guilty of a Class 4 felony. Any person who fails after being given notice of delinquency to file written financial reports required by subsections (c) and (d) of this Section which is more than 2 months past its due date is guilty of a Class A misdemeanor.

(h) Any person who violates any of the provisions of this Section shall be subject to civil penalties of \$5,000 for each violation and shall not be entitled to keep or receive fees, salaries, commissions or any compensation as a result or on account of the solicitations or fund raising campaigns, and at the request of the Attorney General or the charitable organization, a court may order that such be forfeited and paid toward and used for a charitable purpose as the court in its discretion determines is appropriate or placed in the Illinois Charity Bureau Fund.

## **Professional Fundraising Consultant Registration**

(Ch. 23, par. 5107A)

225 ILCS 460/6.5

Sec. 6.5. Each person or entity that undertakes activities as a professional fundraising consultant, and that is not subject to the requirement to register or report as a professional fund raiser, shall register with the Attorney General, and reconfirm the registration every 2 years or upon such longer period as the Attorney General shall prescribe. Application for registration or re-registration shall be in writing, under oath in the form prescribed by the Attorney General, and the Attorney General shall mail registration forms to the address of any registered professional fundraising consultant. Such form shall contain an affidavit to the effect that the professional fundraising consultant has not or will not at any time have custody or control of charitable contributions. Failure to register pursuant to this Section shall

subject the party to a fine in an amount not to exceed \$100.

## **Professional Fundraiser Contracts**

(Ch. 23, par. 5107)

225 ILCS 460/7

Sec. 7. (a) All contracts entered into by a professional fund raiser to conduct a fundraising campaign for a charitable purpose or charitable organization must be in writing in conformity with this Act. A true and correct copy of each contract shall be filed by the professional fund raiser and the charitable trustee or organization who is party thereto with the Attorney General prior to the conduct of a fundraising campaign under the contract and annually by the professional fund raiser at and with each reregistration. Each professional fund raiser shall pay an annual filing fee of \$25 for each active contract filed or on file under this Act. The fee shall be paid at initial and annual re-registration. True and correct copies of such contracts shall be kept on file in the offices of the charitable organization and the professional fund raiser during the term thereof and until the expiration of a period of 3 years subsequent to the date the solicitation of contributions provided for therein actually terminates. Any person who violates the provisions of this Section is guilty of a Class A misdemeanor.

(b) Any contract between a trust or charitable organization and a professional fund raiser must contain an estimated reasonable budget disclosing the target amount of funds to be raised over the contract period, the type and amount of projected expenses related thereto, and the amount projected to be paid to the charitable organization. In addition, the contract shall disclose the period of its duration, the geographic scope for fundraising, describe the methods of fundraising to be employed and provide assurance of record keeping and accountability. If the contract provides that the professional fund raiser will retain or be paid a stated percentage of the gross amount raised, an estimate of the target gross amount to be raised and to be paid to charity shall be stated in the contract. If the contract provides for payment on an hourly rate for fund raising, the total estimated hourly amount, as well as the estimated number of hours to be spent in fund raising, shall be stated.

(c) All professional fund raiser contracts shall be approved and accepted by a majority of the charitable organization's trustees, and in the case of a not for profit charitable corporation, by its president and at least one member of its Board of Directors, and the contract shall recite said approval and acceptance by certification by a trustee or the corporation's president.

(d) All professional fund raiser contracts shall disclose the amounts of all commissions, salaries and fees charged by the fund raiser, its agents, employees and solicitors and the method used for computing such.

(e) If the professional fund raiser, its agents, solicitors or employees or members of the families thereof own an interest in, manage or are a supplier or vendor of fund raising goods or services, the relationship shall be fully disclosed in the contract, as well as the method of determining the related supplier's or

vendor's charges.

(f) If the professional fund raiser, in the course of raising funds, is also providing charitable education program services to the public, the charitable organization shall approve or provide to the fund raiser a written text of all public educational program materials to be disseminated when fund raising, copies of which shall be maintained by the parties.

(g) Any person who knowingly violates any provision of this Section may be subject to injunctive relief and removal from office. Failure to file a contract and pay the prescribed annual contract filing fee prior to conducting a fund raiser for an organization shall in addition to other relief subject the professional fund raiser to a late filing fee of \$1,000 for each contract not timely filed.

(h) A professional fund raiser or professional solicitor that materially fails to comply with this Section shall not be entitled to collect or retain any compensation, commission, fee or salary received in any campaign in which the violation occurs. Upon application, by the Attorney General to a court of competent jurisdiction, the court may apply equitable considerations in enforcing this Section.

## **Public Safety Personnel Organization**

225 ILCS 460/7.5 new

Sec. 7.5. Public Safety Personnel Organization.

(a) Every public safety personnel organization that solicits contributions from the public shall, in addition to other provisions of this Act:

(1) Have as a condition of public solicitation a provision included in every professional fund raiser contract providing that the professional fund raiser shall: (a) maintain and deliver to the organization a list of the names and addresses of all contributors and purchasers of merchandise, goods, services, memberships, and advertisements; (b) deliver the list of the current year semiannually of each contribution or purchase and specify the amount of the contribution or purchase and the date of the transaction; and (c) assign ownership of the list to the public safety personnel organization.

The obligation required by this subdivision (1) does not apply to a professional fund raiser under the following conditions:

(i) the professional fund raiser does not have access to information to create and maintain the list and the public safety personnel organization obtained the information to create and maintain the list under the fund raising campaign by other means; or

(ii) the public safety personnel organization and the professional fund raiser agree to waive the obligation required by this subdivision (1).

(2) Act in accordance with Section 17-2 of the criminal code of 1961, and violation of this

section shall also be subject to separate civil remedy hereunder.

(b) Any professional fund raiser who willfully violates the provisions of this section may in addition to other remedies be subject to a fine of \$2,000 for each violation, forfeiture of all solicitation fees, and enjoined from operating and soliciting the public.

(c) This Section does not apply to a contract that is in effect on the effective date of this amendatory act of the 91st General Assembly (unless the contract is extended, renewed, or revised on or after the effective date of this amendatory act of the 91st General Assembly, in which case this section applies to the contract on and after the date on which the extension, renewal, or revision takes place).

## **Professional Solicitor Registration**

(Ch. 23, par. 5108)

225 ILCS 460/8

Sec. 8. (a) No person shall act as a professional solicitor in the employ of a professional fund raiser required to register pursuant to Section 6 of this Act [225 ILCS 460/6] before he has registered with the Attorney General or after the expiration or cancellation of such registration or any renewal thereof. Application for registration or re-registration shall be in writing, under oath, in the form prescribed by the Attorney General. It shall describe the method and amount the solicitor will be paid and the charities for which the solicitor will be soliciting. Such registration or re-registration when effected shall be for a period of one year, or a part thereof, expiring on the 30th day of June, and may be renewed upon written application, under oath, in the form prescribed by the Attorney General for additional one year periods.

(b) Any person who violates the provisions of this Section is guilty of a Class A misdemeanor.

(c) No person convicted of a felony may register as a professional solicitor. No person convicted of a misdemeanor involving fiscal wrongdoing, breach of fiduciary duty, or a violation of this Act may register as a professional solicitor.

(d) Any person who violates the provisions of this Section shall not be entitled to keep or receive fees, salaries, commissions, or any compensation as a result of or on account of the solicitations or fund raising campaigns, and at the request of the Attorney General a court may order that such fees, salaries, commissions, or compensation shall be forfeited and distributed for charitable use.

## **Civil Actions by the Attorney General**

(Ch. 23, par. 5109)

225 ILCS 460/9

Sec. 9. (a) An action for violation of this Act may be prosecuted by the Attorney General in the name of the people of the State, and in any

such action, the Attorney General shall exercise all the powers and perform all duties which the State's Attorney would otherwise be authorized to exercise or to perform therein.

(b) This Act shall not be construed to limit or restrict the exercise of the powers or the performance of the duties of the Attorney General which he otherwise is authorized to exercise or perform under any other provision of law by statute or otherwise.

(c) Whenever the Attorney General shall have reason to believe that any charitable organization, professional fund raiser, or professional solicitor is operating in violation of the provisions of this Act, or if any of the principal officers of any charitable organization has refused or failed, after notice, to produce any records of such organization or there is employed or is about to be employed in any solicitation or collection of contributions for a charitable organization any device, scheme, or artifice to defraud or for obtaining money or property by means of any false pretense, representation or promise, or any false statement has been made in any application, registration or statement required to be filed pursuant to this Act, in addition to any other action authorized by law, he may bring in the circuit court an action in the name, and on behalf of the people of the State of Illinois against such charitable organization and any other person who has participated or is about to participate in such solicitation or collection by employing such device, scheme, artifice, false representation or promise, to enjoin such charitable organization or other person from continuing such solicitation or collection or engaging therein or doing any acts in furtherance thereof, or to cancel any registration statement previously filed with the Attorney General.

In connection with such proposed action the Attorney General is authorized to take proof in the manner provided in Section 2-1003 of the Code of Civil Procedure [735 ILCS 5/2-1003].

(d) Upon a showing by the Attorney General in an application for an injunction that any person engaged in the solicitation or collection of funds for charitable purposes, either as an individual or as a member of a copartnership, or as an officer of a corporation or as an agent for some other person, or copartnership or corporation, has been convicted in this State or elsewhere of a felony or of a misdemeanor where such felony or misdemeanor involved the misappropriation, misapplication or misuse of the money or property of another, he may enjoin such persons from engaging in any solicitation or collection of funds for charitable purposes.

(e) The Attorney General may exercise the authority granted in this Section against any charitable organization or person which or who operates under the guise or pretense of being an organization exempted by the provisions of Section 3 and is not in fact an organization entitled to such an exemption.

(f) In any action brought under the provisions of this Act, the Attorney General is entitled to recover costs for the use of this State.

(g) Any person who knowingly violates this Section may be enjoined from such conduct, removed from office, enjoined from acting for charity and subject to punitive damages as deemed appropriate by the circuit court.

(h) Any person who violates this Section shall not be entitled to keep or receive monies, fees, salaries, commissions or any compensation, as a result of the

solicitations or fund raising campaigns, and at the request of the Attorney General such monies, fees, salaries, commissions or any compensation shall be forfeited and subject to distribution to charitable use as a court of equity determines.

(i) The Attorney General may publish an annual report of all charitable organizations based on information contained in reports filed hereunder stating the amount of money each organization received through solicitation and the amount of money which was expended on program service activity and the percentage of the solicited assets that were expended on charitable activity.

(j) The Attorney General shall cancel the registration of any organization, professional fund raiser, or professional solicitor who violates the provisions of this Section.

(k) Any person who solicits financial contributions or the sale of merchandise, goods, services, memberships, or advertisements in violation of the prohibitions of subsection (d-1) of Section 11 of this Act, or commits false personation, use of title, or solicitation as defined by Section 17-2 of the Criminal Code of 1961 shall, in addition to any other penalties provided for by law, be subject to civil remedy by cause of action brought by the Attorney General or a Public Safety Personnel Organization affected by the violation.

In addition to equitable relief, a successful claimant or the Attorney General shall recover damages of triple the amount collected as a result of solicitations made in violation of this Act, plus reasonable attorney's fees and costs.

A plaintiff in any suit filed under this Section shall serve a copy of all pleadings on the Attorney General and the State's Attorney for the county in which the suit is filed.

## **Administrative Subpoenas**

(Ch. 23, par. 5110)

225 ILCS 460/10

Sec. 10. When the Attorney General requires the attendance of any persons, as provided in Section 9 [225 ILCS 460/9], he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be served upon the person in the manner provided for service of process in civil cases at least 14 days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena and, upon application of the Attorney General, obedience to the order may be enforced by any court having jurisdiction in the county where the person receiving it resides or is found, in the same manner as though the notice were a subpoena. Such court may, in case of contumacy or refusal to obey the order issued by the Attorney General, issue an order requiring such person to appear before the Attorney General or to produce documentary evidence, if so ordered, or to give evidence touching the matter in question, and any failure to obey such order of the court may be punished by that court as a contempt upon itself. The investigation or hearing may be made by or before any Assistant Attorney General designated in writing by the Attorney General to

conduct such investigation or hearing on his behalf. Witnesses ordered to appear shall be paid the same fees and mileage as are paid witnesses in the circuit courts of this State, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the circuit courts of this State. The Attorney General or the Assistant Attorney General acting in his behalf is empowered to administer the necessary oath or affirmation to such witnesses.

## Unauthorized Solicitations

(Ch. 23, par. 5111)

225 ILCS 460/11

Sec. 11. (a) No person shall for the purpose of soliciting contributions from persons in this State, use the name of any other person, except that of an officer, director or trustee of the charitable organization by or for which contributions are solicited, without the written consent of such other persons.

(b) A person shall be deemed to have used the name of another person for the purpose of soliciting contributions if such latter person's name is listed on any stationery, advertisement, brochure or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or his name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored or endorsed the charitable organization or its activities.

(c) Nothing contained in this Section shall prevent the publication of names of contributors without their written consents, in an annual or other periodic report issued by a charitable organization for the purpose of reporting on its operations and affairs to its membership or for the purpose of reporting contributions to contributors.

(d) No charitable organization or professional fund raiser soliciting contributions shall use a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.

(d-1) No Public Safety Personnel Organization may by words in its name or in its solicitations claim to be representing, acting on behalf of, assisting, or affiliated with the public safety personnel of a particular municipal, regional, or other geographical area, unless: (1) 80% or more of the organization's voting members and trustees are persons who are actively employed or retired or disabled from employment within the particular municipal, regional, or other geographical area stated in the name or solicitation; (2) all of these members are vested with the right to vote in the election of the managing or controlling officers of the organization either directly or through delegates; and (3) the organization includes in any solicitation the actual number of active, retired, or disabled police officers, peace officers, firemen, fire fighters, emergency medical technicians - ambulance, emergency medical technicians - intermediate, emergency medical technicians - paramedic, ambulance drivers, or

other medical assistance or first aid personnel who are members of the organization who are actively employed, retired, or disabled from employment within the particular municipal, regional, or other geographical area referenced in the solicitation.

(d-2) No person or organization may have a name or use a name using the words "officer", "police", "policeman", "policemen", "trooper", "sheriff", "law enforcement officer", "deputy", "chief of police", or similar words therein unless 80% or more of its trustees and voting members are active, retired, or disabled law enforcement personnel.

(d-3) No person or organization may have a name or use a name using the words "fireman", "firemen", "fire fighter", "fire chief", "paramedic", or similar words therein unless 80% or more of its trustees and voting members are active, retired or disabled fire fighters, firemen, emergency medical technicians - ambulance, emergency medical technicians - intermediate, emergency medical technicians - paramedic, ambulance drivers, or other medical assistance or first aid personnel.

(d-4) No person by words in a Public Safety Personnel Organization name or in solicitations made therefor shall state he or she or his or her organization is assisting or affiliated with a local, municipal, regional, or other governmental body or geographical area unless 80% of its trustees and voting members are active, retired, or disabled police officers, law enforcement officials, firemen, fire fighters, emergency medical technicians - ambulance, emergency medical technicians - intermediate, emergency medical technicians - paramedic, ambulance drivers, or other medical assistance or first aid personnel of the local, municipal, regional, or other geographical area so named or stated. Nothing in this Act shall prohibit a public safety personnel organization from stating the actual number of members it has in any geographical area.

(e) Any person or organization that willfully violates the provisions of this Section is guilty of a Class A misdemeanor. Any person or organization that willfully violates the provisions of this Section may in addition to other remedies be subject to a fine of \$2,000 for each violation, shall be subject to forfeiture of all solicitation fees, and shall be enjoined from operating as a fund raiser and soliciting the public for fundraising purposes.

## Registration not an Endorsement

(Ch. 23, par. 5112)

225 ILCS 460/12

Sec. 12. Registration under this Act shall not be deemed to constitute an endorsement by the State of Illinois of the charitable organization, professional fund raiser, or professional solicitor so registered. It shall be unlawful for any charitable organization, professional fund raiser, or professional solicitor to represent, directly or indirectly, for the purpose of solicitation and collection of funds for charitable purposes, in any form or manner whatsoever by advertising or otherwise, that it has registered or otherwise complied with the provisions of this Act. The Attorney General may, in his discretion, cancel the registration of any organization, professional fund raiser, or professional solicitor which or who violates the provisions of this Section. The Attorney General shall, by rule, set forth the standards by which he shall make this determination. Such standards shall

be stated as precisely and clearly as practicable, to inform fully those persons affected.

(Ch. 23, [par. 5113])

225 ILCS 460/13

Sec. 13. The Attorney General may enter into reciprocal agreements with a like authority of any other State or States for the purpose of exchanging information made available to the Attorney General or to such other like authority.

(Ch. 23, par. 5114)

225 ILCS 460/14

Sec. 14. If any provision of this Act, or the application of such provision to any persons, body or circumstances shall be held invalid, the remainder of this Act, or the application of such provision to persons, bodies or circumstances other than those as to which it shall have been held invalid, shall not be affected thereby.

## Fundraising Requirements

(Ch. 23, par. 5115)

225 ILCS 460/15

Sec. 15. (a) Trustees of charitable trusts, organizations and corporations have a duty to supervise fund raising activities to ensure that contributions are adequately protected and devoted to the proper purpose and that statements or representations made during solicitations to the public are true and correct.

(b) If any person, including a charitable organization, a professional fund raiser or a professional solicitor, in conducting a fund raising campaign for a charitable organization or for charitable or ostensibly charitable purposes:

(1) Represents that tickets for a show or goods or services shall be made available to children, disadvantaged persons or for a like charitable purpose, and that such will be distributed by the persons soliciting or the organization, the tickets shall be held in trust for the use as a charitable trust and adequate records and accounting for same maintained.

(2) Disseminates an educational message or materials to the public with or in the course of fund raising activities and allocates the costs between fund raising and education programs, he shall prepare and maintain written worksheets of how the allocation is made and the reasoning behind the allocation.

(3) Sells or offers for sale advertising space in a publication or ad book or periodical, he shall maintain adequate records for all ads sold and written document receipts shall provide the name of the organization involved, the publication's name, and its proposed date of publication, as well as the number of copies proposed to be printed or a reasonable estimate.

(4) Engages in the dissemination of education program services as a part of or in physical conjunction with its solicitation of charitable contributions, it shall record and report all expenses incurred as fund raising unless it allocates the expenses between fund raising and other functions pursuant to professional accounting standards and provisions as

promulgated and set forth by the American Institute of Certified Public Accountants or the Financial Accounting Standards Board from time to time in their official publications. For purposes of making all such allocations, the factors and considerations utilized must be reduced to writing.

(5) Engages in any public solicitation and therein purports to relate the purpose or purposes for which the funds are solicited, such shall then be fully and accurately identified to the prospective donor. If a charitable organization whose purposes include the rendering of noneducational program services intends to expend or budget more than 50% of its program service expenditures for informing or educating the public and the funds being solicited will be used for such purpose, the donor at his or her request must be told that a primary use of the program funds will be for public education.

(6) Collects and takes control or possession of contributions made for a charitable purpose or to a charitable organization, they owe a fiduciary duty to the public to deal with the said contributions in an appropriate fiduciary manner, to keep complete books and records for at least 3 years, to keep records in a comprehensive manner to permit accurate reporting and auditing as required by law, and to not commingle funds with noncharitable funds and to be able to account for the funds, and will be subject to surcharge for any funds not accounted for or wasted, in addition to other remedies available at equity. A presumption shall exist that expenditures not properly documented and disclosed by records were not properly spent.

(c) Any person who violates this Section may be enjoined from continuing to act on behalf of the charity for a period of up to 5 years and if the violation is intentional or willful they shall not be entitled to keep or receive fees, salaries, commissions or any compensation as a result of or on account of the solicitations or fund raising campaigns. At the request of the Attorney General a court shall order that the fees, salaries, commissions, or compensation shall be forfeited and used for a charitable use as the court determines.

## Misuse of Charitable Assets

(Ch. 23, par. 5116)

225 ILCS 460/16

Sec. 16. (a) Any person who intentionally in breach of fiduciary duty misuses charitable assets is subject to punitive damages in an appropriate amount upon a trial on the issue.

(b) Upon an application to a court of competent jurisdiction, in which the Attorney General alleges that a charitable trust needs to be protected or the trustees of a charitable organization or trust have engaged in a breach of fiduciary duty toward the organization, and he seeks injunctive relief and removal of such trustees, the Court may, as part of the injunctive relief, and after a hearing where such trustees shall have an opportunity to be heard, appoint temporarily or permanently a receiver or additional trustees to protect and operate the organization and may temporarily, or as ultimate

relief for breach of duty or to protect the trust, permanently remove any charitable organization's trustees, corporate officers, directors and members from office and appoint replacements to protect the public interest.

## Public Disclosure in Solicitations

(Ch. 23, par. 5117)

225 ILCS 460/17

Sec. 17. In any solicitation to the public for a charitable organization by a professional fund raiser or professional solicitor:

(a) The public member shall be promptly informed by statement in verbal communications and by clear and unambiguous disclosure in written materials that the solicitation is being made by a paid professional fund raiser. The fund raiser, solicitor, and materials used shall also provide the professional fund raiser's name and a statement that contracts and reports regarding the charity are on file with the Illinois Attorney General and additionally, in verbal communications, the solicitor's true name must be provided.

(b) If the professional fund raiser employs or uses a contract which provides that it will be paid or retain a certain percentage of the gross amount of each contribution or shall be paid an hourly rate for solicitation, or the contract provides the charity will receive a fixed amount or a fixed percentage of each contribution, the professional fund raiser and person soliciting shall disclose to persons being solicited the percentage amount retained or hourly rate paid to the professional fund raiser and solicitor pursuant to the contract, and the amount or the percentage to be received by the charitable organization from each contribution, if such disclosure is requested by the person solicited.

(c) Any person or professional fund raiser, professional solicitor soliciting charitable contributions from the public on behalf of a public safety personnel organization shall not misrepresent that they are in fact a law enforcement person, firefighter, or member of the organization for whom the contributions are being raised and if requested by the person solicited they shall promptly provide their actual name, the exact legal name of the organization with which they are employed and its correct address, as well as, the exact name of the charitable organization.

## Statutory Misrepresentations

(Ch. 23, par. 5118)

225 ILCS 460/18

Sec. 18. In any solicitation of contributions for a charitable organization it shall be deemed a misrepresentation of fact if any person:

(a) Who is a professional fund raiser or professional solicitor fails in any solicitations to state and disclose to persons solicited that they are paid professional fund raisers or solicitors if the person being solicited asks if they are paid callers;

(b) Who is relating the projected use of solicited charitable funds and knowingly falsely states in a material fashion the charitable purposes for which the charitable funds collected are to be used or are being used or fails to disclose the primary program service to which such funds are known to be devoted;

(c) Who is a professional fund raiser or professional solicitor and refuses or fails to supply, upon the request of a person being solicited, the hourly rate charge or the estimated percentage or actual percentage, if known, which is to be paid to or retained by the professional fund raiser and solicitor and the amount to be paid to the charitable organization under the fund raising contract then in effect and the amount to be paid to the charitable organizations;

(d) Falsely states or represents that they are a member of a charitable organization or that they are a policeman, sheriff, law enforcement person, or fireman;

(e) Who by use of an organization's name or by its appeal, represents that solicited funds are for research or relates or implies that they will be used to alleviate conditions or to eliminate a condition, or for another specified purpose, but in fact the funds being solicited are used primarily in educating the public and the person soliciting fails therewith also to disclose that the primary purpose of the solicited funds is education;

(f) Who is a professional fund raiser or professional solicitor and who makes a solicitation for a contribution for or on behalf of a charitable organization without authorization by or a contract with the charitable organization;

(g) Any paid person who is soliciting charitable funds who makes an intentional misrepresentation as to the use of solicited funds is subject to punitive damages upon a trial on the issue.

## Penalties for Personal Use of Charitable Assets

(Ch. 23, par. 5119)

225 ILCS 460/19

Sec. 19. Any trustee or person who without lawful authority intentionally disburses or causes the use of charitable trust funds over which he is a fiduciary to be used for his personal benefit or for his own personal use in an amount in excess of \$1,000 within a 3 year period is guilty of a Class 2 felony and is subject to civil punitive damages up to or equal to the amount used and a civil penalty fine of up to \$50,000 for each intentional violation.

(Ch. 23, par. 5120)

225 ILCS 460/20

Sec. 20. All copies of registration materials or financial documents filed with the Attorney General pursuant to the provisions of this Act shall, when certified by him or by his designated Assistant Attorney General, be taken and received in all courts, public offices and official bodies as business records of the filer.

(Ch. 23, par. 5121)

225 ILCS 460/21

Sec. 21. Illinois Charity Bureau Fund. The court in its discretion may place costs, fines, and penalties collected pursuant to this Act into the Illinois Charity Bureau Fund created in Section 19 of the Charitable Trust Act [760 ILCS 55/19] and such shall be expended by the Attorney

General for the enforcement and administration of this Act to protect the public interest in charitable funds and subject to transfer by appropriation of said funds to the Attorney General's Grant Fund at the Attorney General's direction.

Sec. 22. All fees and penalties collected by the Attorney General pursuant to this Act shall be paid and deposited into the Illinois Charity Bureau Fund in the State Treasury. Moneys in the Fund shall be appropriated to the Attorney General for charitable trust enforcement purposes as an addition to other appropriated funds and be used by the Attorney General to provide the public with information concerning charitable trusts and organizations and for charitable trust enforcement activities.

Sec. 23. Charitable Advisory Council. As a part of charitable trust enforcement and public disclosure, a task force composed of citizens chosen by the Attorney General to be known as the Attorney General's Charitable Advisory Council shall be and is hereby formed for a 3-year period. This Advisory Council shall study issues of charitable giving, volunteerism, and fundraising in this State. The Advisory Council members shall serve without compensation, and the expenses of the Council may be paid for out of the Illinois Charity Bureau Fund in an amount not to exceed \$10,000 per year and in the discretion of the Attorney General.

HISTORY:  
Source: P.A. 87-755.

## THE CRIMINAL CODE OF 1961

An Act relating to criminal law and to repeal acts and parts of acts herein named.

Ch. 38, par. 17-2, et seq.

L. 1961, p. 1983

Approved 7/28/61

Statutory short title: Criminal Code of 1961

### FALSE PERSONATION; USE OF TITLE; SOLICITATION; CERTAIN ENTITIES.

720 ILCS 5/17-2

Sec. 17-2 False Personation; Use of Title; Solicitation; Certain Entities.

(a) A person commits a false personation when he or she falsely represents himself or herself to be a member or representative of any veterans' or public safety personnel organization or a representative of any charitable organization, or when any person exhibits or uses in any manner any decal, badge or insignia of any charitable, public safety personnel, or veterans' organization when not authorized to do so by the charitable, public safety personnel, or veterans' organization. "Public safety personnel organization" has the meaning ascribed to that term in Section 1 of the Solicitation for Charity Act.

(a-5) A person commits a false personation when he or she falsely represents himself or herself to be a veteran in seeking employment or public office. In this subsection, "veteran" means a person who has served in the Armed Services or Reserved Forces of the United States.

(b) No person shall use the words "Chicago Police," "Chicago Police Department," "Chicago Patrolman," "Chicago Sergeant," "Chicago Lieutenant," "Chicago Peace Officer," or any other words to the same effect in the title of any organization, magazine, or other publication without express approval of the Chicago Police Board.

(c-1) No person may claim or represent that he or she is acting on behalf of any police department, chief of a police department, fire department, chief of a fire department, sheriff's department, or sheriff when soliciting financial contributions or selling or delivering or offering to sell or deliver any merchandise, goods, services, memberships, or advertisements unless the chief of the police department, fire department, and the corporate or municipal authority thereof, or the sheriff has first entered into a written agreement with the person or with an organization with which the person is affiliated and the agreement permits the activity.

(c-2) No person, when soliciting financial contributions or selling or delivering or offering to sell or deliver any merchandise, goods, services, memberships, or advertisements may claim or represent that he or she is representing or acting on behalf of any nongovernmental organization by any name which includes "officer", "peace officer", "police", "law enforcement", "trooper", "sheriff", "deputy", "deputy sheriff", "state police", or any other word or words which would reasonably be understood to imply that the organization is composed of law enforcement personnel unless the person is actually representing or acting on behalf of the nongovernmental organization, and the nongovernmental organization is controlled by and governed by a membership of and represents a group or association of active duty peace officers, retired peace officers, or injured peace officers and before commencing the solicitation or the sale or the offers to sell any merchandise, goods, services, memberships, or advertisements, a written contract between the soliciting or selling person and the nongovernmental organization has been entered into.

(c-3) No person may solicit financial contributions or sell or deliver or offer to sell or deliver any merchandise, goods, services, memberships, or advertisements on behalf of a police, sheriff, or other law enforcement department unless that person is actually representing or acting on behalf of the department or governmental organization and has entered into a written contract with the police chief, or head of the law enforcement department, and the corporate or municipal authority thereof, or the sheriff, which specifies and states clearly and fully the purpose for which the proceeds of the solicitation, contribution, or sale will be used.

(c-4) No person, when soliciting financial contributions or selling or delivering or offering to sell or deliver any merchandise, goods, services, memberships, or advertisements, may claim or represent that he or she is representing or acting on behalf of any nongovernmental organization by any name which includes the term "fireman", "fire fighter", "paramedic", or any other word or words which would reasonably be understood to imply that the

organization is composed of fire fighter or paramedic personnel unless the person is actually representing or acting on behalf of the nongovernmental organization, and the nongovernmental organization is controlled by and governed by a membership of and represents a group or association of active duty, retired, or injured fire fighters (for the purposes of this section, "fire fighter" has the meaning ascribed to that term in Section 2 of the Illinois Fire Protection Training Act) or active duty, retired, or injured emergency medical technicians - ambulance, emergency medical technicians - intermediate, emergency medical technicians - paramedic, ambulance drivers, or other medical assistance or first aid personnel, and before commencing the solicitation or the sale or delivery or the offers to sell or deliver any merchandise, goods, services, memberships, or advertisements, a written contract between the soliciting or selling person and the nongovernmental organization has been entered into.

(c-5) No person may solicit financial contributions or sell or deliver or offer to sell or deliver any merchandise, goods, services, memberships, or advertisements on behalf of a department or departments of fire fighters unless that person is actually representing or acting on behalf of the department or departments and has entered into a written contract with the department chief and corporate or municipal authority thereof which specifies and states clearly and fully the purposes for which the proceeds of the solicitation, contribution, or sale will be used.

(d) Sentence. False personation, unapproved use of a name or title, or solicitation in violation of subsections (a), (b), and (b-1) of this Section is a Class C misdemeanor. False personation in violation of subsection (a-5) is a Class A misdemeanor. Engaging in any activity in violation of subsection (c-1), (c-2), (c-3), (c-4) or (c-5) of this Section is a Class 4 felony. (Source: P.A. 89-324, eff. 8-13-95)

**TO REGISTER WITH THE ILLINOIS ATTORNEY GENERAL'S OFFICE**  
**ALL ORGANIZATIONS AND TRUSTS MUST SUBMIT:**

**LISA MADIGAN**  
**ATTORNEY GENERAL**

1. All fees due, including a \$15.00 initial Registration Fee: payable to: "Illinois Charity Bureau Fund".
2. "Charitable Organization Registration Statement" (Form CO-1), note all attachments required on form.
3. A copy of the Federal Returns for past 3 years or if no federal returns were filed an AG990IL form for each year of the organization's existence (if more than three years prior to registration attach 3 years subject to further requests); or if the organization has been in existence less than 1 year submit the "Charitable Organization Financial Information Form" (Form CO-2)).
4. A list of names, mailing addresses, and day time phone numbers of all **Officers, Directors and/or Trustees**.
5. A copy of the **IRS Determination Letter** or if pending, submit a copy of **IRS Form 1023 or 1024**.
6. If applicable, copies of all contracts with **Professional Fund Raisers**.
7. If applicable, the "**Religious Organization Exemption Form**" (Form CO-3).
8. **IF A CORPORATION:** Illinois Articles of Incorporation or Articles of Incorporation other than those from Illinois and a Certificate of Authority to do business from the Illinois Secretary of State. All Amendments to the Articles of Incorporation. By-Laws of the Corporation.
9. **IF AN UNINCORPORATED ASSOCIATION:** Constitution and all amendments and By-Laws of the Association.
10. **IF A REPRESENTATIVE OF A PROBATE ESTATE (Containing Charitable Gifts):** Will and Letters of Office. Inventory; Declarations of Trust for any trusts into which the Will pours over and all Amendments thereto.
11. **IF A CHARITABLE TRUST OR A LIVING INTER VIVOS TRUST:** Declaration of Trust, and all Amendments thereto; Inventory and recent accounting.

**NOTE: Illinois law requires charitable organizations and trusts to file an annual financial report each year and pay an annual filing fee of \$15 (and pay a \$100 late report fee for each late report).**

Direct the above registration materials, including all required fees payable to the "Illinois Charity Bureau Fund" to:

Office of the Illinois Attorney General  
Charitable Trust Bureau  
100 West Randolph Street, 11<sup>th</sup> Floor  
Chicago, Illinois 60601-3175  
(312) 814-2595

**NOTE: LATE REGISTRATION FEES:**

- The Solicitation for Charity Act requires that an organization which registers late must pay a late registration fee of \$200.
- The Trust Act and Solicitation Act both also imposes a \$100 late annual financial report filing fee for each annual report filed late.
- Reports mailed prior to registration are not considered filed.
- All fees due must accompany registrations.

**SEE:**

**CHARITABLE TRUST ACT**                      **760 ILCS 55/1 et. Seq.**

**SOLICITATION FOR CHARITY ACT**        **225 ILCS 460/1 et. Seq.**

**As required by Illinois Law, every charity operating in Illinois, with limited exceptions, must register and file an annual financial report with the Illinois Attorney General's Office. (760 ILCS 55/1 et seq. and 225 ILCS 460/0.01 et seq.)**

**TO COMPLETE AN ANNUAL FINANCIAL REPORT FILING THE FOLLOWING ITEMS MUST BE SUBMITTED:**

1. **\$15.00 Annual Filing Fee** - make check or money order payable to "ILLINOIS CHARITY BUREAU FUND." (Soliciting Organizations registered under the Solicitation for Charity Act are required to pay a \$15.00 Annual Report Filing Fee if gross revenues are greater than \$15,000. Trust Organizations registered under the Charitable Trust Act are required to pay a \$15.00 Annual Report Filing Fee if gross revenues or assets are greater than \$25,000.) Reports submitted without proper fees can not be accepted.
2. **Form AG990-IL** - amounts on this form should be typed in black and rounded to the nearest dollar. Complete all sections and line items applicable to the organization. An incomplete AG990-IL will be classified as not filed. See below for simplified filing for small organizations.
  - A. **Part II, Line J1** - Report all program costs associated with a combined fundraising appeal to the extent such was allocated to Charitable Program Service Expense and entered on line J as Charitable Program Service Expense. The amount should equal the amount reported on the back of the AG990IL form, question 7b(ii). You must have and maintain the documentation to support the allocations made.
  - B. **Part III, Line S** - List all fees paid to all fundraising consultants during the year. **Attach** a list of these consultants listing the name and address of the Consultant and the total of all fees paid.
3. **IRS Return or Report** (IRS 990, 990EZ, 990PF or other) - submit a copy of the Federal Return you filed. If you did not file a Federal Return or Report, explain why. Attach explanation.
4. **Audited Financial Statements** - are required if gross contributions exceeded \$150,000 or if the organization used a paid professional fundraiser which raised contributions in excess of \$25,000. Contributions include the gross sums paid by the public for merchandise, rights or services of the organization, as well as cash donations.
5. **Form IFC - Attorney General Report of Individual Fundraising Campaign** - If the organization used a paid professional fundraiser, a separate campaign report form is required for each campaign, and each must be signed by both the professional fundraiser and an officer or director of the organization.

**Small Organizations** (Simplified Filing):

Soliciting Organizations registered under the Solicitation for Charity Act with gross revenue and assets of \$25,000 or less during the fiscal year may file an AG990-IL, disclosing only total revenue, total expenditures, and assets at the fiscal year end (Line A, G and O of the AG990-IL). A \$15.00 annual report filing fee is due only if gross revenue was more than \$15,000.

Trust Organizations registered solely under the Charitable Trust Act with gross revenue and assets of \$25,000 or less during the fiscal year may file an AG990-IL, disclosing only total revenue, total expenditures, and assets at the fiscal year end (Line A, G and O of the AG990-IL). A \$15.00 annual report filing fee is not due.

**ADDITIONAL INSTRUCTIONS:**

1. **CO#:** Include CO# on reports and all correspondence. Upon registration a charitable organization number was assigned (CO# 01-XXX,XXX), if not printed on the form, please insert your CO# on the top of the first page of the AG990-IL. Correct any preprinted name or address information that is incorrect or out of date.
2. **PROGRAM SERVICE CODES:** Select up to three codes from those on back of these instructions which best describe the program service(s) for which the organization spent funds. Enter description(s) and code number(s) in Part V of the AG990-IL.
3. **SIGNATURES:** The signatures of two different officers (president or other authorized officer and the chief fiscal officer) or of two trustees are required on the back side of the AG990-IL. One signature shall be accepted if there is only one officer or trustee.
4. **DUE DATE:** The annual financial report and fee are due within six months of the organization's fiscal or calendar year end. A sixty-day extension of the due date can be requested. The extension request must be in writing and received by our office prior to the due date.
5. **LATE REPORT FILING FEE:** If a proper and complete annual report along with all fees and attachments is not received prior to the due date, a \$100.00 late report filing fee (checks payable to "Illinois Charity Bureau Fund") is required by Illinois law. The report cannot be accepted and will not be considered filed if it is late and the late fee is not paid.
6. File the original AG990-IL, one copy of the attachments, and applicable fees with the:

OFFICE OF THE ATTORNEY GENERAL  
CHARITABLE TRUST BUREAU  
ATTN: ANNUAL REPORT SECTION  
100 WEST RANDOLPH STREET, 3rd FLOOR  
CHICAGO, ILLINOIS 60601-3175  
(312) 814-2595